

Ark. Code §12-84-101 et seq., Arkansas HAZMAT Emergency Management Act, 2001
Title 12. Law Enforcement, Emergency Management, And Military Affairs.
Chapter 84. Arkansas HAZMAT Emergency Management Act.

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12-84-101. Short title.

This chapter may be known and cited as the "Arkansas HAZMAT Emergency Management Act".

12-84-102. Applicability.

- (a) Nothing in this chapter shall be construed as regulatory authority over acts, laws, rules, regulations, or guidelines of other state or federal agencies related to their designated responsibilities and duties as regulatory authorities over concerns of environmental, health, law enforcement, firefighting, medical, or other areas of responsibility.
- (b) The provisions of this chapter are intended to be supplemental to current provisions of Arkansas law, and shall not be construed as repealing or superseding any other laws applicable thereto.

12-84-103. Definitions.

As used in this chapter:

- (1) "Emergency management" means those activities related to disaster and emergency planning, mitigation, training, response, and recovery as prescribed in the Arkansas Emergency Services Act of 1973, § 12-75-101 et seq.;
- (2) "Hazardous and toxic materials" or "HAZMAT" means those extremely hazardous substances described under 42 U.S.C. § 11023, and such other hazardous or toxic substances as may later be designated by federal regulatory agencies;
- (3) "Local emergency planning committee" means those local entities authorized under the provisions of the Arkansas SERC/LEPC Act, § 12-82-101 et seq., and in accordance with the Emergency Planning and Community Right-to-Know Act of 1986, 42 U.S.C. § 11001 et seq.;
- (4) "State Hazardous Materials Emergency Response Commission" means that entity created under the provisions of the Arkansas SERC/LEPC Act § 12-82-101 et seq., and in accordance with the Emergency Planning and Community Right-to-Know Act of 1986, 42 U.S.C. § 11001 et seq.; and
- (5) "Superfund Amendments and Reauthorization Act of 1986, Title III" refers to 42 U.S.C. § 11001 et seq. and activities mandated therein.

12-84-104. State Office of Hazardous Materials Emergency Management.

- (a) There is created by this chapter a State Office of Hazardous Materials Emergency Management within and under the administrative and operational control of the Arkansas Department of Emergency Management.
- (b) The office shall perform the necessary actions and activities as required under current federal and state laws, rules, and regulations related to emergency planning, training, response, and recovery and, as specified in the Arkansas Emergency Services Act of 1973, § 12-75-101 et seq., relating to accidental, deliberate, or act-of-God releases of hazardous or toxic materials which might threaten the public health, safety, welfare, environment, or property of the citizens of Arkansas.

12-84-105. Powers and duties.

The State Office of Hazardous Materials Emergency Management shall:

- (1) Collect, file, and establish an accessible database and make available information derived from the required reports in 42 U.S.C. §§ 11022 and 11023, and in accordance with the laws, regulations, and guidelines established by the federal government and the State of Arkansas;
- (2) Establish, staff, and manage an administrative, fiscal, and operational office to manage all programs and funds required under this chapter and in accordance with the current, accepted practices prescribed by the State of Arkansas and participating federal agencies;
- (3) Establish and manage a system to train and certify emergency first responders at the minimum prescribed levels of competency and proficiency as required by federal or state law or regulation;
- (4) Assist, as requested or directed by the State Hazardous Materials Emergency Response Commission's local emergency planning committees in meeting the minimum standards for planning, training, or exercising as required under the provisions of the Emergency Planning and Community Right-to-Know Act of 1986, 42 U.S.C. § 11001 et seq.;
- (5) Establish a system to certify local emergency planning committees as being in compliance with required actions and activities, as prescribed by the Emergency Planning and Community Right-to-Know Act of 1986, 42 U.S.C. § 11001 et seq., and other governing directives, laws, or regulations;
- (6) Manage federal or state funding programs that provide direct fiscal assistance to certified local emergency planning committees for planning, training, exercising, or administration, to ensure program and fiscal compliance with current federal and state law;
- (7) Perform, manage, and oversee such other hazardous or toxic materials emergency management-related functions as may later be implemented, as directed by the Governor, the commission, and other state authority;
- (8) Collect and administer fees provided in this chapter and such federal funding as may be specifically earmarked for the program of the office, in accordance with current federal and state laws, regulations, and rules and as recommended by the commission to ensure minimum compliance with federal mandates related to hazardous or toxic materials emergency preparedness;
- (9) Provide a point of contact for state agencies, offices, and bureaus to assist with the coordination of specific emergency planning and training and other hazardous or toxic materials emergency management-related activities;
- (10) Provide direct emergency management support to local emergency planning committees to assist them with local hazardous or toxic materials emergency management activities and to assist them with reaching and maintaining compliance with federal mandates for these programs; and
- (11) Manage, as designated by the Governor or the commission, such other hazardous or toxic materials emergency management programs as may later be mandated by federal or state law, regulation, or guidance.

12-84-106. Fees.

- (a) (1) Each facility required to report to the State Hazardous Materials Emergency Response Commission under the provisions of 42 U.S.C. §§ 11022 and 11023, shall pay the following annual fees to the State Office of Hazardous Materials Emergency Management:
 - (A) For each facility required to file one (1) or more hazardous chemical inventory reports, under the provisions of 42 U.S.C. § 11022, an annual fee of twenty-five dollars (\$25.00), and an additional fee of five dollars (\$5.00) for each report filed annually, with a maximum limit of two hundred dollars (\$200) annually for each reporting facility; and
 - (B) For each facility required to file one (1) or more toxic chemical release forms, under the provisions of 42 U.S.C. § 11023, an annual fee of one hundred fifty dollars (\$150) and an additional fee of twenty-five dollars (\$25.00) for each report, with a maximum limit of four hundred dollars (\$400) annually for each reporting facility.
- (2) Any business or other outlet which sells gasoline, diesel, and other motor fuel only at retail to the public shall be exempt from paying the fees outlined in this subsection.
- (b) The commission shall periodically assess the adequacy of the fees established in this section, and may, through the public hearing process, modify the fees imposed for each individual report, not to exceed the stated maximum limit for each reporting facility as indicated in subsection (a) of this section.
- (c) Reports under the provisions of 42 U.S.C. §§ 11022 and 11023 shall be submitted to the office in accordance with, and within the specified time frames of the the Emergency Planning and Community Right-to-Know Act of 1986, 42 U.S.C. § 11001 et seq., and shall include a company check issued by the facility or its parent corporation for the appropriate amount of each submission, as specified in this section, and the check shall be made payable to the office.
- (d) Any facility or person failing to provide the reports and pay the fees, as specified in this section, shall be liable for civil penalties in such amount as the office shall find appropriate, not to exceed ten thousand dollars (\$10,000) per violation, and for payment of any expenses reasonably incurred by the state therefrom.

12-84-107. Office of Hazardous Materials Emergency Management Revolving Fund.

- (a) There is created on the books of the Treasurer of State, Auditor of State, and Chief Fiscal Officer of the State a special revenue fund account to be known as the Office of Hazardous Materials Emergency Management Revolving Fund.
- (b) All moneys collected under this subchapter shall be deposited to the credit of that account as special revenues and shall be used by the State Office of Hazardous Materials Emergency Management to operate the office and enforce this chapter.